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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,279	03/25/2004	Jerome Carmel Caruso	3591-1378	6045

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BRINKS HOFER GILSON & LIONE  
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CHICAGO, IL 60610

EXAMINER
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MCPARTLIN, SARAH BURNHAM

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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01/14/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/809,279

Applicant(s)

CARUSO ET AL.

Examiner

Sarah B. McPartlin

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-16, 18 and 22 is/are rejected.
- 7) ☒ Claim(s) 17 and 19-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date See Continuation Sheet.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information referred to in the information disclosure statements filed on 9/9/04, 4/4/05, 9/1/05 and 10/13/05 have been considered as to the merits.

### ***Claim Rejections - 35 USC § 112***

2. Claims 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 states that the boss structures are substantially "obround." The term is defined in the specification as capsule shaped. It is not clear what the term obround, or the description capsule shaped, includes. The meets and bounds of the claim are undeterminable, therefore rendering the claim indefinite.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 18 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Trotman et al. (4,143,916). With respect to claims 18 and 22, Trotman discloses a plurality of boss structures (31) arranged in a pattern and defining a support surface; a

plurality of web structures (36)(37) joining adjacent boss structures (31) within said pattern; and wherein at least some adjacent web structures (36)(37) defining said plurality of web structures are spaced apart and shaped such that said spaced apart adjacent web structures define substantially X-shaped openings (see the X-shape of element (23) best depicted in Figure 2) there between when views in a direction substantially perpendicular to said support surface. The X-shaped openings are formed by two v-shaped openings joined together.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trotman et al. (4,143,916) in view of Matsuo et al. (5,399,406). With respect to claim 1, Trotman discloses a seat structure (12) comprising a plurality of boss structures (23) and (33) arranged in a pattern, wherein each of said boss structures (23) and (33) has a body-facing surface (29), wherein said body-facing surface of at least one (23) of said plurality of boss structures (23)(33) is a different size and shape than said body-facing surface (29) of at least another (33) of said plurality of boss structures (23)(33); a plurality of web structures (36)(37) joining adjacent boss structures within said pattern, wherein at least some adjacent web structures of said plurality of web structures

(36)(37) are spaced apart such that said spaced apart adjacent web structures define an opening (35) there between. Said plurality of boss structures (23)(33) and said plurality of web structures (36)(37) defined at least in part a seat (16) having a front portion adapted to support the thighs of a user and a rear portion adapted to support the buttock of the user, wherein at least some (23) of the plurality of boss structures (23)(33) defining said rear portion have a greater surface area than at least some (23) of the plurality of boss structures defining said front portion. Said plurality of boss structures (23)(33) and said plurality of web structures (36)(37) define at least in part one of a seat (16) and a back (14). Said web structures (36)(37) are thinner in section than said boss structures (23)(33). Said boss structures (23)(33) comprise a first portion (29) defining a body-facing support surface and at least one rib (25) or (33) extending from said first portion (29) in a direction away from the support surface (29). The at least some of said boss structures and at least some of said web structures are intended for use on a car seat which inherently includes a frame. In the configuration shown in Figure 6, said boss structures (23)(33) have a body facing surface (29), wherein said web structures (36)(37) are spaced apart from said body-facing surface (29), with said body facing surface (29) being more proximal to an occupant than said web structures (36)(37) when the occupant is supported by the seat structure (12). A covering (42) is disposed over at least some of said plurality of boss structures (23)(33) and said plurality of web structures (36)(37). At least some of said boss structures (23)(33) are elongated and have a longitudinal extent and a lateral extent, wherein said longitudinal extent of at least some of said boss structures is great than

said lateral extend of said at least some of said boss structure (i.e. the boss are more tall than they are wide). The body facing surface is substantially obround, substantially rectangular and substantially square. Figure 4 best discloses how the protuberances (33) have generally flat opposing sides that are parallel, thereby creating a substantially square shape. The corners are rounded, and the protuberance is three dimensionally shaped like a capsule. The width of the web structures (36)(37) vary along its length, wherein the opening (35) is positioned between the widest portions of the web structure and the narrowest portion of the web structures is located between the end points of ribs (27) and the neighboring boss structure. As disclosed above, Trotman reveals all claimed elements with the exception of a plurality of web structures that are non-planar and some of which are V-shaped.

Matsuo et al. disclose a panel of material including boss structures (3) and a plurality of non-planar web structures (7). The web structures are v-shaped, with a straight apex at the top, as best depicted in Figures 3 and 4.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to shape the web structures (36)(37) to be non-planar as taught by Matsuo. This hollow rib shaped construction "strengthens the base section 2" (column 4, lines 67-68) thereby assuring the long term performance of the panel.

***Allowable Subject Matter***

7. Claims 17 and 19-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Nord et al. (6,420,015); Tracy (6,954,315); Fields (3,514,156); Koa (5,067,772); Trotman (3,162,487); Chen (5,067,196); Niermeijer (4,377,016); Peterson (2,667,654); Brock et al. (6,451,400); Schmidt et al. (5,679,439).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/  
Primary Examiner  
Art Unit 3636

SBM  
January 8, 2008



Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :9/9/04, 4/4/05, 9/1/05, 10/13/05.